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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/982,652

10/17/2001

Russell M. Krapf

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WESTERN DIGITAL TECHNOLOGIES, INC.  
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EXAMINER

BUI, KIEU QANH T

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

08/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/982,652	<b>Applicant(s)</b> KRAPF ET AL.	
	<b>Examiner</b> KIEU-OANH BUI	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 and 80-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 and 80-84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/18/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/18/07 has been entered.

### ***Remark***

2. Claims **49-79** have been previously canceled, and claims 80-84 have been previously added. Claims **1-48, and 80-84** are pending for reconsideration.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-48 and 80-84 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

5. Claims 1-48 and 80-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. (U.S. Patent No. 5,774,170) in view of Swix et al. (US Patent 6,718,551 B1).

Regarding claim 1, Hite discloses a method for displaying a targeted advertisement to a viewer of a display in conjunction with displaying a broadcast stream on the display comprising 'the first three steps a-c (as claimed) for the displaying of a broadcast stream or video stream based on the selection from the user/viewer using a viewing control interface, i.e., a remote control (see Fig. 5, item 446 for the remote controller; and col. 14/lines 21-58 as the controller selects which broadcast signal stream for displaying to the user/viewer). Hite further teaches the last three steps as the user profile is used for determining the first targeted advertisement delivered to the viewer (Fig. 2 and col. 11/lines 13-30).

Hite might not disclose the amended step as "a corresponding action selected from the group consisting of: specifying how the selected broadcast stream is displayed on the display, replaying the selected broadcast stream, purchasing a good or service, and performing a program search"; however, in a same technique for displaying a target advertisement to the viewer/user/subscriber, Swix teaches an exact same technique as quoted (refer to Swix, col. 3/lines 25-47 for purchasing products or services & col. 4/lines 58-65 for video stream is

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delivered to the set top boxes as broadcast stream and the user tunes or control the display on the TV, back to col. 4/lines 14-33, and further on col. 6/lines 39-59 as well as to col. 9/lines 32-44 as the advertisements in video streams). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hite's system with Swix's disclosed technique in order to control the display of either selected broadcast video stream or targeted advertisement in video stream format.

Hite further teaches the amended features of "receiving a first signal from a viewer control interface indicating a viewer command to the audiovisual system"... for the system to initiate a corresponding action; and "defining a viewer profile of the viewer of the display based on the viewer command" (refer to col. 14/lines 47-65 as the viewer uses the remote control in controlling the system; in other words, the system receives from the viewer control interface the viewer command; and col. 4/lines 52-61 & col. 8/lines 18-38 as the viewers' data are collected based on their preferences and/or selection of the advertisements, and the system determines the most appropriate commercial to them based on their demographics, i.e., user or viewer profiles.)

As for claims 2-9, these repetitive claims simply refer to the viewer update profile to the headend, and based on the updated viewer profile, the updated or second advertisement is delivered or broadcasted to the viewer (col. 3/line 65 to col. 4/line 23; col. 11/lines 13-45 for the algorithm to consistently update the consumer database and provide updated and appropriate advertisements to the viewer). Furthermore, Hite further teaches to include the action selected from the group consisting of recording the first advertisement, specifying on how to display the first advertisement, and replaying the first advertisement (see col. 7/line 15 to col. 8/line 38 for same objectives).

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As for claim 10-13, Hite teaches these features for displaying ID of at least one of the stored advertisements, menu or list of advertisements on the display, including a banner or an icon (refer to Figs. 2 & 3; and col. 9/line 43 to col. 10/line 53).

As for claims 14-16, Hite further teaches these features as the updated (second) advertisement needs to follow the first advertisement, i.e., even the viewer changes the channel, the advertisement can be continued to complete on the new channel (col. 7/line 65 to col. 8/line 17); and the displaying for the above advertisements are at the same time for displaying regularly scheduled advertisements within the broadcast stream (col. 7/line 65 to col. 8/line 17 for the displaying time slots are adjacent and on the regularly scheduled advertisements).

As for claims 17-20, Hite further discloses wherein the broadcast stream is a TV broadcast stream, a cable broadcast stream, a satellite broadcast stream, and an Internet broadcast stream (col. 5/lines 40-50; col. 6/line 60 to col. 7/line 14; col. 7/line 52-col. 8/line 17; and col. 13/line 58 to col. 14/line 58 for a wide range of sources and digital/analog/coaxial, cable, satellite, cable modem etc.).

As for claims 21-24, Hite further teaches these features as the object of Hite is to target advertisements to each viewer based on their profile (col. 3/lines 20-28 & col. 4/lines 3-18), and the advertisements can be stored on a hard disk (Fig. 5/item 456 and col. 14/lines 32-46 for storing and playback including the commercials or advertisements).

As for claims 25-48 and 80-84, these claims with same features as claimed earlier are rejected for the reasons given in the scope of claims 1-24 as disclosed in details above. In addition, Hite teaches on how to maneuver the advertisements by including the action selected from the group consisting of recording the first advertisement, specifying on how to display the

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first advertisement, and replaying the first advertisement (see col. 7/line 15 to col. 8/line 38 for same objectives). Hite might not disclose the amended step as “a corresponding action selected from the group consisting of: specifying how the selected broadcast stream is displayed on the display, replaying the selected broadcast stream, purchasing a good or service, and performing a program search”; however, in a same technique for displaying a target advertisement to the viewer/user/subscriber, Swix teaches an exact same technique as quoted (refer to Swix, col. 3/lines 25-47 for purchasing products or services & col. 4/lines 58-65 for video stream is delivered to the set top boxes as broadcast stream and the user tunes or control the display on the TV, back to col. 4/lines 14-33, and further on col. 6/lines 39-59 as well as to col. 9/lines 32-44 as the advertisements in video streams). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hite’s system with Swix’s disclosed technique in order to control the display of either selected broadcast video stream or targeted advertisement in video stream format.

### ***Conclusion***

**6. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to PTO New Central Fax number:**

(571) 273-8300, (for Technology Center 2600 only)

*Hand deliveries must be made to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.*

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to "Krista" Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K. Bui', with a long horizontal line extending to the right.

Kieu-Oanh Bui  
Primary Examiner  
Art Unit 2623

KB  
August 17, 2007